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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,806	06/13/2005	Roger McMorrow	3998264-151581	9879

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EXAMINER

FLANAGAN, BEVERLY MEINDL

ART UNIT PAPER NUMBER

3739

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/516,806

Applicant(s)

MCMORROW, ROGER

Examiner

Beverly M. Flanagan

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 8 and 10-22 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


BEVERLY M. FLANAGAN
PRIMARY EXAMINER

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed May 13, 2004 has been made of record and the references cited therein have been considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the secondary arm" in 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7, 8, 10-16, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. Patent No. 6,135,948).

In regard to claims 1-3, 7, 8, 13-15 and 22, Lee teaches a laryngoscope 24 having a blade 28 and a deployable mirror 20 where the mirror 20 is pivotable with respect to the blade 28 (see Figures 3, 4, 7 and 8). A pivoting handle 32 having an upper section 36 and a lower section 38 attached at a central pivot 40 has a bottom 42 from which a control cable 44 extends through the blade 28 in a bore 46 (see Figure 5 and col. 4, lines 27-45). Figure 5 shows the rest state of handle 32 and Figure 7 shows operation of the handle 32 towards handle 30 against a bias to cause the mirror 20 to be deployed. A first pivot arm 48 swings out hinging off first pivot point 49 and a second pivot arm 52 carrying deployable mirror 20 swings out to actuate the mirror 20 into operable position (see Figures 6-8 and col. 4, lines 48-62). A sliding member 54 that rides within a sliding slot 56 allow for the fine adjustment or pivoting of the mirror 20 to whatever angle is needed by moving the mirror angle adjustment knob 58 (see Figures 9 and 10). Although Lee does not specifically disclose a spring, as broadly as claimed, handle 32 is in a rest position (Figure 5) via a spring bias by virtue of its central pivot 40. Figure 7 shows that first pivot arm 48 and second pivot arm 52 are coupled via pivot point 51. **In regard to claims 10-12**, Figure 5 shows that the blade 28 is detachable, is curved and extends, during use, substantially perpendicularly from the handle 30 (see also col. 4, lines 27-35). **In regard to claim 16**, Figure 6 shows that blade 28 contains a recess for receiving the mirror 20 in the non-deployed state. **In regard to claim 21**, Figure 5 shows a light source on the blade 28.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. Patent No. 6,135,948) in view of Corazzelli, Jr. (U.S. Patent No. 4,360,008).

In regard to claims 17-20, Lee is silent as to a pivotable tip on blade 28. However, Corrazelli, Jr. discloses a similar laryngoscope comprised of a blade body 30 having a tip 60 that is pivotally secured to the blade 30 by a hinge pin 62, where the tip 60 functions as a tissue depressor or displacer (see Figure 1 and col. 4, lines 62-66). Handle actuating lever 98 causes tip 60 to pivot (see col. 6, lines 31-51). Corrazelli, Jr. thus demonstrates that laryngoscopes with blades having pivotable tips are well known in the art, where the pivotable tip is desirable for moving tissues out of the field of view. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the laryngoscope of Lee with the pivotable tip disclosed by Corrazelli, Jr., in the interest of equipping the blade with a tissue displacing or moving mechanism at the tip.

Allowable Subject Matter

Claims 4-6 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should note the following prior art references disclosing

laryngoscopes with mirrors: Felbarg, U.S. Patent No. 3,643,654; Moore, U.S. Patent No. 3,884,222; Russell, U.S. Patent No. 1,945,380; Cadariu et al., U.S. Patent No. 3,870,037; Ruiz, U.S. Patent No. 5,349,943 and German Publication No. DE 29502902.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Beverly M. Flanagan
Primary Examiner
Art Unit 3739